





The Town of Fenwick Island

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**Regular Meeting of the Town Council
The Town of Fenwick Island
December 11, 2009 @3:30 PM
AGENDA**

1. Flag Salute and Call to Order
2. Topics for Discussion and Possible Action
3. Approval of Minutes from October 23, 2009 Regular Council Meeting.
4. Treasurer's Report: Council Member Bunting
5. Town Manager's Report – Win Abbott
6. Department Reports: Beach, Building, Public Works and Police Department
7. Committee Reports: Beach, Environmental
8. Planning Commission: Winnie Lewis
9. Charter and Ordinance: Council Member Weistling
 - a. Proposed Second Reading Chapter 56 Boating
10. Old Business
11. Public participation
12. President's Report
13. Upcoming Events and Meetings
 - a. December 24 & 25 Christmas Holiday – Town Hall Closed
 - b. January 1 Fenwick Freeze @ 10:30 AM Bayard Street Beach
 - c. January 1 New Year Day – Town Hall Closed
 - d. January 12 Cultural & Historic Preservation Sub-committee and Planning Commission 1:30 and 2:30 PM respectively
 - e. January 18 Martin Luther King Holiday – Town Hall Closed
 - f. January 22 Regular Council Meeting @ 3:30 PM
14. Adjournment

This agenda is subject to change to include the deletion of items and the addition of items, including Executive Sessions, which arise at the time of the meeting.

Posted: December 1, 2009

Minutes of the October 23, 2009 Regular Council Meeting

DRAFT

Call to Order and Flag Salute at 3:30 pm by Mayor Serio.

Council in Attendance: Weistling, Bunting, Serio, Langan, Carmean, and Smallwood.

Council Absent: Tingle

Presentation: Sombar & Company CPA, PA Report on Annual Audit

Tom Sombar, CPA, presented a summary of the Annual Audit. Copy of the Annual Report is available in Town Hall.

DISCUSSION

Mayor Serio asked Mr. Sombar to expand on the Capital Improvement Section of the budget as presented. Mr. Sombar noted that this included primarily the repaving of Bunting Avenue. He added that a budget is not inflexible as Council cannot possibly anticipate all capital expenses that might arise in a budget year. When an unanticipated expense occurs, he suggested that Council revisit/revise its budget to reflect those changes.

Council Member Carmean asked if it is advisable to keep not more than \$250,000 in any one financial institution. Mr. Sombar noted that this is the limit of insurance set by the Federal Deposit Insurance Corporation (FDIC) and that using multiple financial institutions is a way of minimizing risk.

PUBLIC PARTICIPATION

Buzz Henifin (48 W Farmington St) – asked if Mr. Sombar had found any management problems. Mr. Sombar noted that there appear to be no major problems.

Topics for Discussion and Possible Action:

- a. Resolution # 40-2009 Arbor Day Proclamation – Council Member Carmean
Council Member Carmean requested on behalf of the Environmental Committee that Council designate April 30, 2010 as Arbor Day in the Town of Fenwick Island.

Motion to adopt Resolution #40-2009 – Council Member Carmean
Second – Council Member Smallwood

DISCUSSION

None

Vote to adopt Resolution #40-2009 (6-0)
Resolution #40-2009 Passed

- b. Resolution #41-2009 Urban Forest Management – Council Member Carmean
Council Member Carmean request on behalf of the Environmental Committee that Council accept Resolution #41-2009 designating the Environmental Committee as its agent when dealing with Urban Forest Management matters.

Motion to adopt Resolution #41-2009 – Council Member Carmean
Second – Council Member Smallwood

DISCUSSION

Council Member Carmean advised that this resolution would be used to assist the town in seeking grant funding for Urban Forestry projects.

Council Member Weistling advised that he saw no need for for this resolution and that he is reluctant to authorize any committee to act without first seeking approval from council.

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Council Member Carmean advised that there is no grant money involved; this is something that the Tree City USA Recertification suggests. She added further that the Environmental Committee would not take any action without first seeking Council agreement.

Mayor Serio noted that she did not want to authorize any committee to act on behalf of the citizens.

Council Member Carmean withdrew her request for Resolution #41-2009.

No further action taken.

- c. Board of Adjustment, Board of Election and Planning Commission Appointments – Mayor Serio
Mayor Serio advised that these are treated separately from town committees in that they are required by State law. Mayor Serio announced the following:

Board of Adjustment – New member Tim Collins (x2012) and Craig Lambertson (x2012)

Motion to accept – Council Member Bunting

Second – Council Member Langan

Vote to approve – All in favor (6-0)

Appointments Approved

Planning Commission – Winnie Lewis (x2011), Richard Mais (x2011) both reappointments; Todd

Smallwood (x2011) and Jack Smith (x2011) new members

Motion to accept – Council Member Carmean

Second – Council Member Bunting

DISCUSSION

Council Member Weistling questioned Phil Craig's membership on both the Planning Commission and the Board of Adjustment. Mayor Serio noted that there is no conflict of interest as per legal opinion previously offered by Town Solicitor Steen. Council Member Carmean agreed with Council Member Weistling and would like this addressed in the future.

Vote to approve – All in favor (6-0)

Appointments Approved

Board of Election – New member Dick Bowman (X2012) is actually a reappointment

Motion to accept – Council Member Bunting

Second – Council Member Carmean

DISCUSSION

Council Member Weistling asked if three members for this Board is adequate; Mayor Serio advised that this is a State requirement.

Vote to approve – All in favor (6-0)

Appointments Approved

Approval of Minutes:

Motion to Approve the Minutes of September 25, 2009 Meeting: Council Member Carmean

Second: Council Member Langan

DISCUSSION: Council Member Weistling requested a change be made to page 1 by adding "Bunting" after Council Member Gardner Bunting's name in Par 3 Discussion.

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Vote to approve minutes with the noted change: 5-0

Council Member Smallwood abstained.

Minutes Approved

Treasurer's Report:

Council Member Bunting presented Treasurer's Report. Mr. Bunting noted that the report included in the booklet contained an error under Public Works. Propane gas was included by mistake; Town Manager Abbott will provide the correct report for inclusion in these minutes.

DISCUSSION

None

Motion to Accept the Treasurer's Report as Amended: Council Member Carmean

Second: Council Member Smallwood

Vote to accept the Treasurer's Report as amended: All in favor (6-0)

Treasurer's Report Approved

Town Manager Report:

- Town Manager, Win Abbott, reported that, as a result of his discussions with Moor Disposal, trash container handling has improved.
- Mr. Abbott announced the receipt of a grant of \$1000 from the Barefoot Gardeners for plants to beautify the town.
- Mr. Abbott announced that Secretary/Receptionist Nancy Avery is assisting him with financial record keeping.
- Fenwick Island Police Department has increased its Emergency Management activities.
- Town Clerk, Agnes DiPietrantonio, has completed 40 hours of Municipal Clerk Training with the University of Delaware Institute for Public Administration (IPA). She also created several data bases for use by Town Hall staff.
- Public Works is preparing for installation of the new sign at Town Hall by trenching for electric cabling that will connect with the emergency generator.
- Recycling total for September was 10.01 tons
- DNREC will replace ropes at the dune lines. They prefer rope as this allows sand to drift onto the dunes and provide footing for dune grass.
- Sussex County has replaced the generator on Cannon Street in order to provide better service.

DISCUSSION

Council Member Weistling acknowledged the grant from Barefoot Gardeners and Mayor Serio read a letter which will be sent to the group thanking them for their generous donation.

Department Reports:

- Beach Patrol –Mayor Serio advised that she is in meetings with DNREC, Sussex County and State representatives regarding funding for the Beach Patrol for next summer.
- Building Official – Report is included in the council packet. Council Member Weistling noted that the revenue for September 2009 exceeded the department revenue for the entire year 2009-2009.
- Public Works: Report is included in the council packet. Town Manager Abbott reported that Artesian Water continues its work on the intersections.
- Fenwick Island Police Department: Chief Boyden reported that his department is working with the Bethany Beach Volunteer Fire Company (BBVFC) on coordinating communications. He reported that the Police Department cell phone will now receive text messages from BBVFC when they broadcast matters concerning public safety.

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DISCUSSION

Council Member Carmean advised that she has spoken with Chief Boyden about recent burglaries in town and that Chief has offered to any homeowner a security/safety inspection. The homeowner must call the FIPD to request it. Mayor Serio noted that this is an excellent resource for those who are elderly or live alone.

Committee Reports:

- Beach Committee – Becca McWilliams announced the Fenwick Freeze will be January 1, 2010 @ 10:30 AM on Bayard Street Beach. Registration will be on the beach this year. Win Abbott will MC the event. The entrance fee remains the same as last year and the committee is making all arrangements. Proceeds from the sale of T-shirts, towels, and bags will assist the lifeguards with their expenses for national competitions. Registration forms will go out with the FIN letter.
- Environmental Committee – Buzz Henifin reported that the recent meeting hosted a speaker, Mike Chambers from groSolar, who spoke on solar energy technology.

Planning Commission:

Report included in Council book.

Charter & Ordinance:

- Council Member Weistling motioned to accept a First Reading of Chapter 56 – Boating (included at the end of these minutes)
Council Member Langan seconded.

DISCUSSION

Council Member Weistling noted that the proposed change removes vague/unclear language and provides specific definitions and fines.

Council Member Carmean advised that the word “which” should be included in: ... (3) At a speed greater than three (3) miles per hour in any lagoon or canal, or at a speed greater than steerage way or that which creates a wake in any lagoon/canal; or...

PUBLIC PARTICIPATION

Buzz Henifin (48 W Farmington St) – believes there is a disparity in 56-1 (c) and 56-2; Council Member Weistling noted that the distance speed is now being changed to 3 mph vs. 6 mph.

Mary Pat Kyle (1205 Bunting Ave) – 56-2(A) shows 600 feet and asked if that was a watercourse. Council Member Weistling added that this is old language that was intended for the bayside area.

Wayne Carmean (38 W Essex St) – noted that the change from 6 mph to 3 mph is unrealistic as most speedometers do not register at that low speed and that many boats will become unstable at that speed. A general discussion of speed measurement followed. Mayor Serio suggested that Council Member Weistling and the Charter and Ordinance Committee readdress speed.

Motion to approve First Reading of Chapter 56 – Boating with Mrs. Carmean’s change – Council Member Weistling

Second – Council Member Bunting

Vote to accept the First Reading of Chapter 56 - Boating: All in Favor.

First Reading passed (6-0)

- Council Member Weistling motioned to accept a Second Reading of Chapter 48 – Animals (included at the end of these minutes)
Council Member Bunting seconded.

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DISCUSSION

Council Member Carmean – regarding fines in Section 48-8 Mrs. Carmean asked if the words “upon conviction” should be included. Council Member Weistling noted that often a citation is issued and that no court hearing is set. As written, the ordinance will allow for fines/payment of fines without court hearing(s).

PUBLIC PARTICIPATION

None

Vote to accept the Second Reading of Chapter 48 – Animals

Smallwood – yes; Carmean – yes; Bunting – yes; Serio – yes; Weistling – yes; Langan – yes

Tingle - absent

Second Reading passed (6-0)

- Council Member Weistling motioned to accept a Second Reading of Chapter 52 – Beaches (included at the end of these minutes)
Council Member Carmean seconded.

DISCUSSION

Council Member Weistling noted that the proposed change includes clear wording and fines.

PUBLIC PARTICIPATION

None

Vote to accept the Second Reading of Chapter 52 - Beaches

Smallwood – yes; Carmean – yes; Bunting – yes; Serio – yes; Weistling – yes; Langan – yes

Tingle - absent

Second Reading passed (6-0)

Old Business:

- None

Public Participation:

- John Belian (1 W Houston St) – announced that the Fenwick Island Fishing Club Tournament on 1 October was a great success. New this year: 3 Junior members; one lady participant; one physically challenged participant.
- Buzz Henifin (48 W Farmington St) – Thanked council for its support of Arbor Day and asked why Resolution #41-2009 was withdrawn. Mayor Serio advised that the resolution will be readjusted and resubmitted. Mr. Henifin noted that Mr. Belian is taking photos of trees for the penultimate Tree Triage report. He also thanked Town Manager Abbott for the expanded packet distributed to the public for today's meeting.
- Mary Pat Kyle (1205 Bunting Ave) – Asked if the excavation for electricity for the new sign will affect the park and if the grass will be restored. Town Manager Abbott responded that it will.
- Martha Keller (1312 Bora Bora St) – asked the status of beautification projects for SR 1. Mayor Serio responded that the town has “re-applied” for a grant through the Delaware Economic Development Office (DEDO). Town Manager Abbott explained that the 2002 DelDOT Pedestrian Plan included an element for sidewalks and that is the aspect that the town has focused on, especially on how the creation of sidewalks would improve the economic conditions and job opportunities in town. The addition of

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sidewalks will make it a safer environment, help increase sales opportunities for the commercial community and beautify the town.

- Gail Warburton (10 W Farmington St) – regarding fines, Mrs. Warburton asked if, when included in an ordinance, does “shall” mean the same as “must.” Council Member Weistling advised that persons who are convicted will be fined.

President’s Report:

- Announced committee assignments (included at the end of these minutes). She noted that Council Member Carmean’s name was inadvertently omitted from the Environmental Committee list. She also noted that Commissions will be removed from this list and shown separately.
- Mayor Serio advised that she has attended a meeting with Senator Carper and the USDA regarding stimulus funds and the USDA loan program. Sussex county has received in excess of \$100M most of which will be spent on sewer projects.
- Senator Hocker will hold a Koffee Klatch in Fenwick Island. Time and date will be announced.
- Members of the Fenwick Island Town Council will attend an all day training class in Rehoboth Beach on Monday 26 October, 2009 hosted by the Delaware League of Local Governments (DLLS)
- BBFVC will coordinate a tree lighting program to be held at the town park on Friday December 4, 2009 @ 7:00 PM
- Mayor Serio made note of upcoming meetings.

Motion to Adjourn: Council Member Carmean

Second: Council Member Langan

Vote: All In favor

Motion passed (6-0)

Mayor Serio adjourned the meeting at 5:00 PM.

Respectfully submitted,

Agnes DiPietrantonio, Town Clerk

for

Diane Tingle, Secretary

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NOTICE

On October 23, 2009 The Fenwick Island Town Council
Passed the Following Resolution #40-2009
Arbor Day 2010

Whereas, J. Sterling Morton established the first Arbor Day on April 10, 1872 in his home state of Nebraska to urge Americans to stop misusing their natural resources and begin to practice conservation by planting trees; and

Whereas, the holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska, and

Whereas, Arbor Day is now observed throughout the nation and the world, and

Whereas, trees can reduce the erosion of our precious topsoil by wind and water, lower our heating and cooling costs, moderate the temperatures, clean the air, produce oxygen and provide habitat for wildlife, and

Whereas, trees are a renewable resource giving us paper, wood for our homes, fuel for our fires and countless other wood products, and

Whereas, trees, wherever they are planted, are a source of joy and spiritual renewal,

Whereas, the Town Council, of the Town of Fenwick Island, desires to urge all citizens to plant and care for trees to gladden the heart and promote the well-being of this and future generations.

Therefore, the Town Council, of the Town of Fenwick Island, on behalf of the citizens and property owners of the Town of Fenwick Island, in order to accomplish this goal, do hereby establish for this purpose, and do hereby proclaim **April 30, 2010** as Arbor Day in the Town of Fenwick Island, and urge all citizens to celebrate Arbor Day and to support efforts to protect our trees and woodlands.

Attest: _____
Agnes D. DiPietrantonio, Town Clerk

Audrey Serio, President of Council

Diane B. Tingle, Council Secretary

I, Diane B. Tingle, Secretary of the Town Council, of the Town of Fenwick Island, Delaware, do hereby certify that the foregoing is a true and correct copy of the Resolution passed by the President and Council at a meeting on October 23, 2009, at which a quorum was present and voting throughout and the same is still in force and effect.

Date

Diane B. Tingle, Council Secretary

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NOTICE

On **October 23, 2009** The Fenwick Island Town Council
Passed the Following Resolution #41-2009

Whereas, the Town of Fenwick Island recognizes that trees can reduce the erosion of our precious topsoil by wind and water, lower our heating and cooling costs, moderate the temperatures, clean the air, produce oxygen and provide habitat for wildlife, and

Whereas, the Town of Fenwick Island has undertaken an Urban Forest Resource Assessment the purpose of which is to identify and understand existing resources, and

Whereas, the Town of Fenwick Island continues to seek opportunities to increase the urban canopy, to maintain in good condition the current inventory, and to provide for the future needs of the Town, and

Whereas, the Town of Fenwick Island has designated the Fenwick Island Environmental Committee to assist in the delegation of tree care activities and to coordinate the Town's efforts to maintain and enhance the urban canopy within the Town.

Therefore, the Town of Fenwick Island, the Town Council, the Town Council members, the citizens and property owners of the Town of Fenwick Island, and the Fenwick Island Environmental Committee, do hereby authorize the Environmental Committee of the Town of Fenwick Island to act on behalf of its citizens to preserve and to protect the urban canopy and to seek ways to increase tree planting and tree maintenance activities within the Town of Fenwick Island.

Attest: _____
Agnes D. DiPietrantonio, Town Clerk

Audrey Serio, President of Council

Diane B. Tingle, Council Secretary

I, Diane B. Tingle, Secretary of the Town Council, of the Town of Fenwick Island, Delaware, do hereby certify that the foregoing is a true and correct copy of the Resolution passed by the President and Council at a meeting on October 23, 2009, at which a quorum was present and voting throughout and the same is still in force and effect.

Date

Diane B. Tingle, Council Secretary

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TOWN OF FENWICK GUARD YTD BUDGET SEPTEMBER 2009

REVENUES	YTD September	Budget	YTD % Budget	EXPENDITURES	YTD Sept.	Budget	YTD % Budget	YTD Sept.	Budget	YTD % Budget	
43000-Taxes				63100 Police Department							
Rental Tax	15604	275,000	5.67%	Payroll-related exp	40,306	389,682	12.65%	Administration	30,272	240,544	12.58%
Property Tax	569,722	623,000	91.45%	Veh maint, gas & oil	2269	29,000	17.36%	Payroll-related exp	2500	2,500	100.00%
				Computer & Airtime	73-	5,000	14.68%	Office equip & supply	2944	11,000	26.78%
44550-Charges for Services - Admin				Training	375	3,000	12.50%	Training & Travel exp	80	5,000	1.60%
Business licenses	7919	82,500	2.33%	Uniform, Equip maint	827	5,000	16.54%	Vehicle, Fuel & Maint	820	5,225	15.69%
Garbage & Recycling	168,175	178,160	94.42%	Office Supplies, Print	130	7,000	1.86%	Print, Post Permit exp.	0	2,600	0.00%
Comcast franchise fee	9,681	23,000	34.58%	Hurricane Readiness	758	3,000	25.27%	Sub-total	36,656	266,869	13.72%
Ambulance Service	25,311	27,120	93.33%	Sub-total	55,429	431,682	12.84%				
Bldg Permit Fees	52,527	75,000	70.04%	61500 Lifeguards				General Government	23,008	167,582	13.74%
				Payroll-related exp	60,995	179,750	33.88%	Trash & Recycle Exp	100	60,000	0.17%
44890-Fees & Forfeitures				Uniform, Supplies, etc	69	7,500	0.80%	Insurance	6075	27,120	22.40%
Penalties	100	3,000	3.33%	Training & Certification	0	1,400	0.00%	Ambulance Service	821	26,500	3.10%
Traffic and Parking Fees	14,019	55,000	25.49%	Misc & Junior Guards	253	900	28.11%	Pro Serv (Legal, Audit)	2489	14,000	17.78%
				Gasoline	94	200	47.00%	Utility Expense	2,096	15,000	13.97%
45000-Investments				Sub-total	61,302	189,750	32.31%	Telephone & website	1099	9,300	11.82%
Inv. Income	778	9,000	8.64%					Other prof. Services	75	4,500	1.67%
				62800 Public Works Department				Postage & Printing	256	6,000	4.27%
46430- Misc. Revenue				Payroll-related exp	28,616	225,457	12.43%	Building Maintenance	1259	7,500	16.79%
Parking Permit	5985	25,000	23.78%	Building maint Utilities	247	5,600	4.41%	Gov & Comm Relations	0	5,000	0.00%
Boatfe Permits	460	2,500	18.40%	Gas & Oil	1060	4,000	26.50%	Codification	0	5,000	0.00%
Town Hall rent	240	2,000	12.00%	Equip, Repairs & Maint	365	4,500	8.11%	Employee Relations	951	3,000	31.70%
Misc Income & copy fees	692	5,100	13.57%	Training & Safety Equip	0	2,000	0.00%	Contingency Reserve	0	5,000	0.00%
Insur. Reimb	0	5,000	0.00%	Uniforms, Shop & Misc	119	2,450	4.86%	Emerg Mgmt & misc	2893	3,300	87.67%
Beach concession	0	20,000	0.00%	CDL License Test	48	500	9.60%	Sub-total	19,114	353,772	5.40%
Misc - Jr. Lifeguard	0	2,500	0.00%	Sub-total	29,853	244,507	12.21%				
Misc. Revenue Police	150	7,200	2.08%								
Sale of Equipment	10										
Carry-over from prior year	0										
Grant Revenue	26000	59,500	43.70%								
Total Revenues	891333	1,496,580	59.96%					Total Expenses	132,202	1,496,580	8.89%

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Proposed 1st Reading – October 23, 2009

EXISTING:

Chapter 56, BOATING

§ 56-1. Prohibited operation of boats.

No person shall operate a motor propelled boat within the waterways of the limits of the Town of Fenwick Island, Delaware, in any of the following manners:

- A. In an unreasonable and reckless disregard for the safety of persons or property;
- B. At a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing;
- C. At a speed greater than six (6) miles per hour in any lagoon or canal, or to create a wake; or
- D. By failing to follow the rules for motor-propelled boats, as established by the U.S. Coast Guard and the Delaware State Marine Police.

§ 56-2. Personal watercraft.

- A. For the purpose of this section, the following definitions shall be applicable unless the context clearly indicates to the contrary:

HEADWAY SPEED -- The minimum speed necessary to maintain steerage and control of a personal watercraft while such personal watercraft is moving.

PERSONAL WATERCRAFT -- Any Class A inboard vessel (less than sixteen (16) feet in length) as defined by the United States Coast Guard which uses either an internal combustion engine powering a water jet-pump or a propeller as its primary source of propulsion and which is designed to be operated either by a person or persons sitting, standing or kneeling on the vessel or by a water-skier via remote control, instead of in the conventional manner of vessel operation, such as riding in the vessel.

- B. No person shall mark, designate or use a watercourse within a distance of one-fourth (1/4) mile of any beach, bank or bulkhead within the corporate limits of the Town of Fenwick Island for the purposes of defining and limiting operation of personal watercraft or any other power vessel.

- C. No person shall operate a personal watercraft within a distance of six hundred (600) feet of any beach, bank or bulkhead within the corporate limits of the Town of Fenwick Island, except under the following circumstances and conditions:

- (1) Traversing through to waters beyond the town's territorial limits; or
- (2) Travelling to or from a home berth, or launching site within the town's limits; and
- (3) During such transits, the personal watercraft shall not be operated at any speed greater than steerage speed.

§ 56-3. Violations and penalties.

- A. Any boat operator found guilty of violating this chapter shall, upon conviction thereof, be subjected to a fine, for the first offense, of not less than ten dollars (\$10.) nor more than twenty-five dollars (\$25.). For each subsequent like offense, he shall be fined not less than twenty-five dollars (\$25.) nor more than fifty dollars (\$50.).

- B. Any person or other legal entity that is the owner of a personal watercraft or has charge or control over a personal watercraft shall be subject to the same penalty specified in Subsection A each time another person is directed and/or allowed to operate such watercraft in violation of any provision of this chapter.

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Proposed 1st Reading – October 23, 2009

EXISTING:

Chapter 56, BOATING

§ 56-1. Prohibited operation of boats.

No person shall operate a motor propelled boat within the waterways of the limits of the Town of Fenwick Island, Delaware, in any of the following manners:

- A. In an unreasonable and reckless disregard for the safety of persons or property;
- B. At a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing;
- C. At a speed greater than six (6) miles per hour in any lagoon or canal, or to create a wake; or
- D. By failing to follow the rules for motor-propelled boats, as established by the U.S. Coast Guard and the Delaware State Marine Police.

§ 56-2. Personal watercraft.

- A. For the purpose of this section, the following definitions shall be applicable unless the context clearly indicates to the contrary:

HEADWAY SPEED -- The minimum speed necessary to maintain steerage and control of a personal watercraft while such personal watercraft is moving.

PERSONAL WATERCRAFT -- Any Class A inboard vessel (less than sixteen (16) feet in length) as defined by the United States Coast Guard which uses either an internal combustion engine powering a water jet-pump or a propeller as its primary source of propulsion and which is designed to be operated either by a person or persons sitting, standing or kneeling on the vessel or by a water-skier via remote control, instead of in the conventional manner of vessel operation, such as riding in the vessel.

- B. No person shall mark, designate or use a watercourse within a distance of one-fourth (1/4) mile of any beach, bank or bulkhead within the corporate limits of the Town of Fenwick Island for the purposes of defining and limiting operation of personal watercraft or any other power vessel.
- C. No person shall operate a personal watercraft within a distance of six hundred (600) feet of any beach, bank or bulkhead within the corporate limits of the Town of Fenwick Island, except under the following circumstances and conditions:

- (1) **Traversing through to waters beyond the town's territorial limits; or**
- (2) **Traveling to or from a home berth, or launching site within the town's limits; and**
- (3) **During such transits, the personal watercraft shall not be operated at any speed greater than steerage**

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*APPROVED First Reading – September 25, 2009
Proposed Second Reading – October 23, 2009*

Existing – Chapter 48 (Animals)

§ 48-8. Attack by pets or other animals.

It shall be unlawful for any person to permit any pet or other animal owned by him/her or under his/her control to attack or molest any person or domestic pet or other animal on private or public property not owned or leased by the owner or guardian of such animal or the person exercising control thereof. This offense shall be punishable by a fine of not less than \$100 nor more than \$200.

§ 48-9.1. Violations and penalties.

Any person violating any of the provisions of this article or committing any of the acts herein declared to be unlawful where no other specific penalty is provided shall, upon conviction thereof by a court of competent jurisdiction, be deemed guilty of a misdemeanor and punishable by a fine of not less than \$100.

§ 48-13. Violations and penalties.

Any person or persons who shall violate the prohibitions of § 48-11 of this article shall be fined not less than \$200 nor more than \$1,000 for each offense. Each incident or each day that such an offense continues or reoccurs shall be deemed a separate offense.

Proposed:

§ 48-8. Attack by pets or other animals.

It shall be unlawful for any person to permit any pet or other animal owned by him/her or under his/her control to attack or molest any person or domestic pet or other animal on private or public property not owned or leased by the owner or guardian of such animal or the person exercising control thereof. This offense shall be punishable by a fine of \$100.

§ 48-9.1. Violations and penalties.

Any person violating any of the provisions of this article or committing any of the acts herein declared to be unlawful where no other specific penalty is provided shall, upon conviction thereof by a court of competent jurisdiction, be deemed guilty of a misdemeanor and punishable by a fine of \$100 for each offense.

§ 48-13. Violations and penalties.

Any person or persons convicted of violating the prohibitions of § 48-11 of this article shall be fined \$100 for each offense. Each incident or each day that such an offense continues or reoccurs shall be deemed a separate offense.

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*APPROVED First Reading – September 25, 2009
Proposed Second Reading – October 23, 2009*

Existing – Chapter 52 (Beaches)

§ 52-11. Violations and penalties.

Any person convicted of violating the provisions of Article II shall be subject to a fine of not less than \$25 nor more than \$100. The registered owner of a vessel in violation of Article II shall be held responsible for the violation.

§ 52-13. Exempt activities.

State of Delaware or Town of Fenwick Island, Delaware, official or authorized personnel or activities on the primary dune or beach are exempt from the provisions of this article.

§ 52-15. Closing of beach for repair.

The Council shall close sections of the beach strand while beach and dune repairs are in process and shall be patrolled by employees designated by Council. No undesignated person or persons or vehicles shall be allowed on the areas closed by the Council during the beach and dune repair process.

§ 52-16. Violations and penalties.

Any person or persons who shall violate any provision of Article IV shall, upon conviction thereof, be fined not more than \$100. Each day of a separate and continuing violation shall be deemed a separate offense.

Proposed:

§ 52-11. Violations and penalties.

Any person convicted of violating the provisions of Article II shall be subject to a fine of \$100 for each offense. The registered owner of a vessel in violation of Article II shall be held responsible for the violation.

§ 52-13. Exempt activities.

State of Delaware or Town of Fenwick Island, Delaware authorized official Personnel or activities on the primary dune or beach are exempt from the provisions of this article.

§ 52-15. Closing of beach for repair.

The Council shall close sections of the beach strand while beach and dune repairs are in process and shall have the power and authority to designate its employees and/or approved contractors and their employees to patrol the work area. No undesignated person or persons or vehicles shall be allowed on the areas closed by the Council during the beach and dune repair process.

§ 52-16. Violations and penalties.

Any person or persons convicted of violating any provision of Article IV shall be subject to a fine of \$100. Each day of a separate and continuing violation shall be deemed a separate offense.

Minutes of the October 23, 2009 Regular Council Meeting

TOWN COMMITTEES 2009 - 2010

Audit

Gardner Bunting – Chair
Audrey Serio
Vickie Rymer

Budget

Gardner Bunting
Vicki Carnean
Gene Langan
Todd Smallwood
Audrey Serio
Diane Tingle
Bill Weistling
John Lewis
Charles Zonko
Vickie Rymer

Emergency Management

Audrey Serio – Chair
Richard Mais
Gardner Bunting
Bill Boyden
Dick Bowman
Pat Schuchman
Win Abbott

Board of Adjustment

Tim Collins (term exp. 2012)
Phil Craig (term exp. 2010)
Marcia Frederick (term exp. 2011)
Lizbeth Lear (term exp. 2011)
Craig Lambertson (term exp. 2012)

Planning Commission

Winnie Lewis (term exp. 2011)
Richard Mais (term exp. 2011)
Todd Smallwood (term exp. 2011)
Phil Craig (term exp. 2010)
Susan Klein (term exp. 2010)
Lois Twilley (term exp. 2010)
Jack Smith (term exp. 2011)

Beach

Rebecca McWilliams
Tim Perry
Vivian Jennings
John Belian
Lizbeth Lear
Lori Smallwood

Building

Bill Weistling
John Belian
Jesse Sheppard
Reid Tingle

Charter & Ordinance

Bill Weistling – Chair
Gene Langan
Buzz Henefin
Mike Quinn
Diane Tingle
Vicki Carnean
Winnie Lewis

Environment

Buzz Henefin
John Fenton
Mary Ellen Langan
Donna Blank
Harry Haon
Mary Pat Kyle
John Belian
Chuck Welsh
Susan Klein

Board of Elections

Buzz Henefin (term exp. 2010)
Mary Wright (term exp. 2011)
Dick Bowman (term exp. 2012)

**TOWN OF FENWICK ISLAND
BUILDING REPORT
OCTOBER 2009**

PERMIT #	PROPERTY DESCRIPTION	PROJECT DESCRIPTION	E.C.C.	TOTAL
3813	B. Waide 2 W. Dagsboro St. Lot 244 1-34 23.16 54.00	Replace front window	\$1,000.00	-0-
3814	E. Higgins 8 W. Georgetown St. Lot 169 1-34 23.12 99.00	125'x4' vinyl fence	\$800.00	\$50.00
3815	Atlantic Bldg. Service D. Jenkins 7 W. Atlantic St. Lot 72 1-34 23.16 112.00	Replace 6 windows and T-111 on south side of house	\$1,500.00	\$50.00
3816	Winterling Marine Service H. Robertson 12 W. Dagsboro St. Lot 249 1-34 23.16 49.00	Repair existing bulkhead w/ rip-rap; remove dock	\$1,500.00	\$50.00
3817	DNR Construction Group H. Geovjian 5 E. Bayard St. Lot 9 1-34 23.16 265.00	Re-roof	\$5,504.00	\$162.10
3818	Lloyd Saunders Roofing D. Mickelson 8 W. Houston St. Lot 151 1-34 23.12 118.00	Re-roof and replace existing windows	\$13,043.00	\$391.29
3819	Chesapeake Solar W. Carmean 38 W. Essex St. Ext. Lot 542 1-34 23.12 40.00	Install solar hot water system & photovoltaic energy system (18 solar panels & 2 water collectors)	\$33,260.00	\$100.00
3820	Dream Builders T. Rockhill 900 Schulz Road Lots 433 & (1) Unk. 1-34 23.16 6.00	5-Bedroom; 4-Bath single family dwelling	\$425,000.00	\$12,750.00
3821	Ocean View Plumbing K. Broadwater 10 W. Indian Street Lot 125 1-34 23.12 141.00	Hook up fee – Artesian Water	-0-	\$35.00
3122	Jas. Allison Builders Rickards Ctr. Partnership 100 Coastal Highway Lots 8,9,10,11 1-34 23.20 52.00	Replace shingles on front roof of building	\$19,680.00	590.00
3851	Ocean City Roofing JWM Enterprises 1406 Coastal Highway Lots 71, 72, 73, 130, 131 1-34 23.12 137.00	Re-roof	\$10,712.00	\$321.36
		TOTAL	\$511,999.00	\$14,499.75.00

PUBLIC WORKS DEPARTMENT REPORT
October 14, 2009 to November 30, 2009

The following activities have been performed by the Public Works Department for this time period.

- Drainage, shoulder, sign, and post work was performed throughout this time frame.
- Routine maintenance of buildings, equipment, grounds, right of way, and median was performed during this time frame.
- Cut and trim grass in right of way and park.
- Water town flower pots throughout town
- Street clean ups after heavy weather events including Ida .
- Pick up, clean, and paint beach trash barrels, and pick up recycle barrels store for winter.
- Pick up 14 bike racks and store for winter.
- Repairing lifeguard stands
- Raise drainage lid on W. West Virginia.
- Take down volleyball net and post clean and store for winter.
- Take up, clean, and store shuffleboard mats and posts for winter.
- Pressure wash concrete where shuffleboard mats were.
- Remove and clean 12 wood beach signs.
- Plant flowers in park and around town hall.
- Remove, clean, and store flower pots from in front of town hall for winter.
- Obtain and put up and take down Halloween/Thanksgiving decorations in front of town hall.
- Safety meeting on preparing for emergency evacuations and general truck safety 10-22-09

- Install buried electric line in conduit from town sign to generator panel for Dynamo electric service to make connections.
- Remove and store 12 benches off of dunes for winter.
- Assist with water shutdown of irrigation lines in park for winter
- Safety meeting 11-02-09 first aid for burns and general truck safety.
- Repair humps in brick walkway in park.
- Order, obtain, and install two bricks in park walk
- Fertilize park and town hall ground
- Fertilize azalea's in median
- Charlie attended a one day conference on asset management at Clayton Hall University of Delaware on 11-5-09
- Put up holiday lights on coastal highway, town hall, and the park.
- Cut grass at 6 West South Carolina
- Clean out concrete basins.
- Dan and Bryan attended a 2 day school for ICS 200.
- Charlie attended a 1 day workshop for Tort Liability

Respectfully submitted,
 Wilmer E. Abbott IV
 Town Manager

FENWICK ISLAND POLICE DEPARTMENT

MEMORANDUM

TO: PRESIDENT
COUNCIL MEMBERS
CITIZENS

FROM: Chief William Boyden

DATE: November 30, 2009

SUBJECT: OCTOBER MONTHLY REPORT

Here is the October monthly report for your review and approval:

	2009	2008
Traffic Arrests/Citations	125	112
Total Number of Complaints	45	30
DUI Arrests	0	2
Criminal Arrests	0	0
Parking Tickets	4	8

FENWICK ISLAND POLICE DEPARTMENT

MEMORANDUM

TO: PRESIDENT
COUNCIL MEMBERS
CITIZENS

FROM: Chief William Boyden

DATE: December 3, 2009

SUBJECT: NOVEMBER MONTHLY REPORT

Here is the November monthly report for your review and approval:

	2009	2008
Traffic Arrests/Citations	115	112
Total Number of Complaints	29	28
DUI Arrests	2	2
Criminal Arrests	3	7
Parking Tickets	2	5

EXISTING:

Chapter 56, BOATING

§ 56-1. Prohibited operation of boats.

No person shall operate a motor propelled boat within the waterways of the limits of the Town of Fenwick Island, Delaware, in any of the following manners:

- A. In an unreasonable and reckless disregard for the safety of persons or property;
- B. At a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing;
- C. At a speed greater than six (6) miles per hour in any lagoon or canal, or to create a wake; or
- D. By failing to follow the rules for motor-propelled boats, as established by the U.S. Coast Guard and the Delaware State Marine Police.

§ 56-2. Personal watercraft.

- A. For the purpose of this section, the following definitions shall be applicable unless the context clearly indicates to the contrary:

HEADWAY SPEED -- The minimum speed necessary to maintain steerage and control of a personal watercraft while such personal watercraft is moving.

PERSONAL WATERCRAFT -- Any Class A inboard vessel [less than sixteen (16) feet in length] as defined by the United States Coast Guard which uses either an internal combustion engine powering a water jet-pump or a propeller as its primary source of propulsion and which is designed to be operated either by a person or persons sitting, standing or kneeling on the vessel or by a water-skier via remote control, instead of in the conventional manner of vessel operation, such as riding in the vessel.

- B. No person shall mark, designate or use a watercourse within a distance of one-fourth (1/4) mile of any beach, bank or bulkhead within the corporate limits of the Town of Fenwick Island for the purposes of defining and limiting operation of personal watercraft or any other power vessel.

- C. No person shall operate a personal watercraft within a distance of six hundred (600) feet of any beach, bank or bulkhead within the corporate limits of the Town of Fenwick Island, except under the following circumstances and conditions:

- (1) Traversing through to waters beyond the town's territorial limits; or**
- (2) Traveling to or from a home berth, or launching site within the town's limits; and**
- (3) During such transits, the personal watercraft shall not be operated at any speed greater than steerage speed.**

§ 56-3. Violations and penalties.

- A. Any boat operator found guilty of violating this chapter shall, upon conviction thereof, be subjected to a fine, **for the first offense, of not less than ten dollars (\$10.) nor more than twenty-five dollars (\$25.). For each subsequent like offense, he shall be fined not less than twenty-five dollars (\$25.) nor more than fifty dollars (\$50.).**

- B. Any person or other legal entity that is the owner of a personal watercraft or has charge or control over a personal watercraft shall be subject to the same penalty specified in Subsection A each time another person is directed and/or allowed to operate such watercraft in violation of any provision of this chapter.

Proposed:

Chapter 56 - Boating

§ 56-1. Definitions.

For the purpose of this section, the following definitions shall be applicable unless the context clearly indicates to the contrary:

STEERAGE WAY -- The minimum speed necessary to maintain steerage and control of a personal watercraft while such personal watercraft is moving.

PERSONAL WATERCRAFT -- Any Class A inboard vessel [less than sixteen (16) feet in length] as defined by the United States Coast Guard which uses either an internal combustion engine powering a water jet-pump or a propeller as its primary source of propulsion and which is designed to be operated either by a person or persons sitting, standing or kneeling on the vessel.

§ 56-2. Prohibited operation of boats.

- A. No person shall mark, designate or use a watercourse within a distance of **600 feet** of any beach, bank or bulkhead within the corporate limits of the Town of Fenwick Island for the purposes of defining and limiting operation of personal watercraft or any other power vessel.
- B. No person shall operate a motor propelled boat within the waterways of the limits of the Town of Fenwick Island, Delaware, in any of the following manners:
 - (1) In an unreasonable and reckless disregard for the safety of persons or property;
 - (2) At a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing;
 - (3) **At a speed greater than steerage way or that which creates a wake in any lagoon/canal;** or
 - (4) By failing to follow the rules for motor-propelled boats, as established by the U.S. Coast Guard and **Delaware state law governing 'Boating Laws and Responsibilities.**

§ 56-3. Violations and penalties

- A. Any boat operator found guilty of violating this chapter shall, upon conviction thereof, be subjected to a **fine of \$100 for each offense.**
- B. Any person or other legal entity that is the owner of a personal watercraft or has charge or control over a personal watercraft shall be subject to the same penalty specified in Subsection A each time another person is directed and/or allowed to operate such watercraft in violation of any provision of this chapter.

TO: Fenwick Island Town Council
FROM: Winnie Lewis, Chair , Planning Commission

- The Cultural and Historic Preservation Sub-committee met on November 10, 2009. Oral History Project activities will continue. Drafting a 3-year Plan. Focus this year on commercial community – folks who owned businesses and/or worked at local businesses. Next meeting January 12, 2010 @1:30 PM.
- The Planning Commission met on November 10, 2009.. Membership had a brief discussion of the commercial community's participation and interaction with Town committees. No action will be taken. Members began formulating the Work Plan for 2009-2010 and will finalize at the next meeting January 12, 2010 @2:30 PM.

Respectfully Submitted,

Winnie Lewis
WL/adip